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PHILADELPHIA INQUIRER
18 MARCH 1982

Senate favors penalties for naming spies

By Mike Shanahan
Associated Press

WASHINGTON — The Senate cleared the way yesterday for approval of legislation under which journalists and government officials could be jailed or fined for publicly disclosing the names of covert American intelligence agents.

The proposal is strongly supported by President Reagan as a means of preventing terrorist attacks on CIA agents overseas. But it has been condemned by some senators, journalism societies and the American Civil Liberties Union as a direct attack on the free-press provisions of the First Amendment.

The Agent Identities Bill, approved by the House last fall, was first proposed four years ago when former CIA officers such as Philip Agee began naming names and locations of undercover intelligence agents as part of a campaign to limit or abolish covert operations by the CIA.

But the debate has broadened since then, and enactment of the measure has been delayed for months by disagreement over how difficult it should be for a prosecutor to build a case against a reporter who named a covert agent in print.

The Senate resolved that issue yesterday, voting 55-39 to approve a version that would allow a journalist to be convicted only if a jury had reason to believe that the identification of an agent would disrupt intelligence operations. A final vote on the legislation was delayed, probably until today.

A competing version, recommended by the Senate Judiciary Committee and Sen. Joseph Biden (D., Del.), would have gone further, requiring a jury to conclude that a reporter in-

tended to disrupt U.S. intelligence operations. Many of those who supported that version expressed dissatisfaction with the measure that was approved.

Charles Novitz, president of Sigma Delta Chi, an organization of journalists, said it was unconstitutional and would have a "chilling effect on the reporting of U.S. activities overseas. This bill strikes at the right of Americans to monitor their government."

Jack Landau, director of the Reporters Committee for Freedom of the Press, complained that "this bill allows for the prosecution and jailing of news reporters and authors for identifying agents or their sources even if the agent or the source is breaking federal law, or is violating presidential policy, or even if their names come from public records."

"The First Amendment," said Landau, "only permits the conviction and jailing of news people for publishing information which is a direct, immediate and irreparable injury to the national security, and does not permit prosecutions for disclosing information which is merely embarrassing or causes some discomfort to the government."

Bruce Sanford, a Sigma Delta Chi attorney, called the bill "a rude,

clumsy and dangerously unnecessary incursion into the liberties of all Americans, and the real shame is that most people simply don't understand why."

Biden said federal prosecutors should be required to show that a reporter deliberately set out to "impair or impede" legitimate intelligence operations. Another supporter of the stricter standard, Sen. Daniel P. Moynihan (D., N.Y.), said, "We are not enacting this bill to ease the burden of U.S. attorneys."

Biden also expressed fear that a reporter might be prosecuted for exposing CIA abuses. Recently, for example, the New York Times detailed the activities of former CIA agents Francis E. Terpil and Edwin P. Wilson, who set up a secret, private arms-selling operation in Libya.

"I want the press going there intending to expose those people," Biden said.

Shortly after the vote, Sen. John Chafee (R., R.I.), sponsor of the version that was approved, said the legislation would not permit prosecution of journalists who exposed illegal or improper actions by the CIA. He also said "You can kick the tar out of the CIA" without specifically identifying clandestine agents.